



September 13, 2005

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EX PARTE – VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Re: WC Docket No. 04-223
Notice of Oral and Written Ex Parte Presentations

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this filing will provide notice that on September 12, 2005, John Nakahata of Harris Wilshire and Grannis, and the undersigned met with Russ Hanser, Legal Advisor to Commissioner Abernathy, and Scott Bergmann, Legal Advisor to Commissioner Adelstein, and today with Jessica Rosenworcel, Legal Advisor to Commissioner Copps. In addition, I communicated via telephone today with Dan Gonzalez, Michelle Carey, Russ Hanser, Scott Bergmann, Tom Navin, and Julie Veach. The substance of each is set forth herein and in GCI's September 9 *ex parte* submission.

GCI particularly emphasized that, first and foremost, a situation where the primary competitor has relied on UNE-L for customer acquisition raises very different issues than those before the Commission in the instant proceeding, for example, customer disruption, the effect on competition, and incentives for deployment. As Cox has stated, it has only purchased copper loops from Qwest on "rare occasions." *See Cox ex parte* filing, WC Docket No. 04-223, dated June 30, 2005 at 3. This is in stark contrast to GCI's competitive entry via UNEs in Alaska markets. For this reason, the Commission should specify that its ruling in the instant proceeding does not consider, and thus does not reach, the situation where a competitive provider utilizes unbundled loops to serve existing customers in the market. This latter situation raises distinctive issues, at the least concerning the protection of customers under Section 10(a)(2) and the public

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interest, including the competitive effect, under Sections 10(a)(3) and 10(b), that by statute, must be fully considered at such time they are raised.

At bottom, an overly broad standard that runs the risk of being applied in other markets to prematurely interrupt the availability of UNEs is circular in its rationale, will shut down competitive offerings, and chill the opportunity for conversion to facilities-based infrastructure. Consideration of individual petitions as required under Section 10, however, provides the necessary opportunity to investigate these facts and rule accordingly once presented.

Please address any questions regarding the foregoing to the undersigned.

Sincerely,

/s/

Tina M. Pidgeon
Vice President, Federal Regulatory Affairs

cc (via electronic mail):

Russ Hanser
Scott Bergmann
Jessica Rosenworcel
Dan Gonzalez
Michelle Carey
Tom Navin
Julie Veach
Jeremy Miller
Terri Natoli
Ian Dillner